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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/718,943	11/22/2000	Thomas Gassenmeier	H 4325	1228

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EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
1751	14

DATE MAILED: 01/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/718,943

Applicant(s)

GASSENMEIER ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11.
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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1. This action is responsive to the amendment filed on November 5, 2001.
2. The submission of one (1) sheet of drawing is acknowledged. Please see the changes required in the attached Notice of Draftsperson's Patent Drawing Review, PTO 948.
3. In view of the submission of a drawing, it is suggested that a brief description of the drawing with a header be added into the appropriate section of the specification. It is also suggested that reference to Fig. 1 on page 6, lines 6-17 (in particular, the non-English language) be reworded in light of the corrections to be made in the drawing.
4. The cancellation of claim 1 is acknowledged. Claims 10-16 and 18-19 are pending.
5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The Markush group of acidic components in claim 10, lines 11-19 (i.e. mono- or dicarboxylic acids containing 10 to 22 carbon atoms . . . polymeric polycarboxylic acids . . . and/or dicarboxylic acids) are not disclosed in the specification. The claim limitation, although having basis in the claims as originally filed, does not have basis in the specification. Addition of this claim limitation to the specification can overcome this objection.

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6. Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 13 has the same limitation as in claim 12 to which this claim depends upon.

7. The rejection of claim 1 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brichard et al. (US Patent No. 4,321,301) is withdrawn in view of applicants' amendment.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 10-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mittelstrass et al. (DD 140987).

Mittelstrass teaches a continuous production of granulated detergents and cleaning agents in fluidized bed apparatus wherein 85 parts of a mixture of  $\text{Na}_5\text{P}_3\text{O}_{10}$  (95% phase II, bulk density 1000 g/l, 80% particle with diameter  $<0.2$  mm) 40,  $\text{Na}_2\text{CO}_3$  10,  $\text{Na}_2\text{SO}_4$  25.8, Na perborate 14, and additives 10.2% is fluidized and sprayed with 15 parts 10:7 dodecylbenzenesulfonic acid-fatty acid mixture to prepare dust-free granules with bulk density 530 g/l (see abstract). Considering

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the amount of the acid mixture, the amount of the alkaline mixture and the bulk density of the resulting granules, it would be inherent of the dust-free granules to satisfy the recited formula. Hence, Mittelstrass anticipates the claims.

10. Claims 10-16 and 18-19 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Block et al. (WO 92/17404), hereinafter "Block".

Block teaches a mixture consisting of 92.5 wt% sodium percarbonate coated with 7.5 wt% of a 1:1 mixture of C<sub>8-10</sub> fatty acids and technical stearic acid which is free-flowing and is used in a detergent composition containing sodium dodecylbenzenesulfonate, tallow alcohol ethoxylate, sodium carbonate, and enzymes, among others (see abstract). Considering the amount of the acid mixture, the amount of sodium percarbonate and its free-flowing property, it would be inherent for the coated percarbonate to satisfy the recited formula. Hence, Block anticipates the claims.

11. Claims 10-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baillely (GB 2,337,054).

Baillely teaches an effervescence particle comprising an anhydrous perborate coated with a coating agent (see abstract), wherein the coating agent is preferably polymers or copolymers of maleic acid, acrylic acid and/or methacrylic acid; fatty acids having a carbon chain length from

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C12 to C22 and C8-C13 dicarboxylic acids (see page 3, lines 29-40; page 4, line 20) at a level from 0.3% to 20% by weight of the particle (see page 4, lines 40-43). Baillely also teaches that the coating agent is applied in liquefied form, that is a molten coating agent which is applied at a temperature above its melting point (see page 4, lines 25-31). Baillely also teaches that the particle has a particle size between 10 microns and 2 cm, preferably such that 80% by weight of the particles has a particle size of more than 75 microns and less than 10% by weight of the particles has a particle size of more than 0.5 cm (see page 5, lines 11-23). Baillely also teaches Particle B comprising sodium perborate and sodium carbonate coated with 3% MA/AA, MW 4000 (copolymer of 1:4 maleic/acrylic acid) (see pages 35-36). Baillely also teaches incorporating this particle to a detergent composition, see Examples 1-3. Baillely, however, fails to specifically disclose the particle size of Particle B.

The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to select the portion of the prior art's range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization of results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

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12. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. These references are considered cumulative to or less material than those discussed above.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

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(703) 305-3599 - for Official After Final faxes  
(703) 305-7718 - for all other Official faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

January 8, 2002

*Lorna M. Douyon*  
Lorna M. Douyon  
Primary Examiner  
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